

**Opinion No. 18-2119**

August 19, 1918

**BY:** HARRY L. PATTON, Attorney General

**TO:** State Tax Commission, Santa Fe, New Mexico.

No Authority for Appropriation by Commissioners for County Council of Defense.

**OPINION**

I am writing you pursuant to the conversation which I have just had with Mr. J. E. Saint, a member of your Commission.

It appears that in the estimated budget of taxes from Union County, there has been an appropriation or levy of \$ 5,000 for "County Council." I assume that this relates to the County Council of Defense of that county. Mr. Saint desires to know whether or not a levy made by the Board of County Commissioners of that county for that purpose is authorized by law.

The State Council of Defense was created by Chapter 5, Extraordinary Session, Laws 1917. Prior to that time, there was no provision in our statutes for either a State or County Council of Defense. Section 7 of said act, appropriates the sum of \$ 5,000 which the Governor is authorized to expend for the contingent expenses of his office made necessary by the present war. Section 8 of the act authorizes Boards of County Commissioners to make a levy not exceeding one mill on the dollar, to be expended for the repair, improvement and maintenance of public highways and bridges so as to facilitate the transportation of troops, equipment and food supplies, etc.

The authority to make a levy is confined to the last section referred to, and we fail to find any authority to make an appropriation, such as has been made by the Board of County Commissioners of Union County. My conclusion is that such appropriation and levy is not authorized by our statutes.